

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA  
AT CHARLESTON**

**ERIC CURRAN,**

**Plaintiff,**

**v.**

**AMAZON.COM, INC., a Delaware corporation; GETTY IMAGES, INC., a Delaware corporation; ST. MARTIN'S PRESS, LLC, SIDESHOW INC., d/b/a SIDESHOW COLLECTIBLES, a Delaware corporation; HOT TOYS, LTD., a business entity incorporated in Hong Kong; and CAFEPRESS.COM, INC., a Delaware corporation,**

**CIVIL ACTION NO. 2:07-0354**

**(on Removal from the Circuit Court of Kanawha County; Civil Action No.: 07-C-856)**

**Defendants.**

**CAFEPRESS.COM, INC.'S MOTION TO DISMISS THE  
COMPLAINT PURSUANT TO FEDERAL RULE OF CIVIL  
PROCEDURE 12(b)(6) FOR FAILURE TO STATE A CLAIM**

CafePress.com, Inc. ("CafePress"), by and through undersigned counsel, hereby moves this Court to dismiss Plaintiff Eric Curran's ("Plaintiff") Complaint pursuant to Federal Rule of Civil Procedure 12(b)(6) for failure to state a claim upon which relief can be granted. As set forth in the accompanying Memorandum of Law, Plaintiff's claims against CafePress are preempted by the Good Samaritan Exemption of the Telecommunications Act of 1996, otherwise known as the Communications Decency Act ("CDA"), 47 U.S.C. § 230(c), under which CafePress is entitled to statutory immunity. Plaintiff's claim for Invasion of Right of Publicity also fails on the additional grounds that Plaintiff has not alleged that he is a public figure. For

these reasons, CafePress moves this Court for an Order dismissing with prejudice Plaintiff's Complaint as to CafePress.

Dated: June 8, 2007

Respectfully Submitted,

CAFEPRESS.COM, INC.

BY: THE TINNEY LAW FIRM, PLLC

/s/ John H. Tinney  
John H. Tinney (WV Bar # 3766)  
James K. Tinney (WV Bar # 9173)  
707 Virginia Street, East  
Chase Tower, 14th Floor (Zip 25301)  
P. O. Box 3752  
Charleston, WV 25337-3752  
Tel: (304) 720-3310  
Fax: (304) 720-3315  
[johntinney@tinneylawfirm.com](mailto:johntinney@tinneylawfirm.com)  
[jimtinney@tinneylawfirm.com](mailto:jimtinney@tinneylawfirm.com)

-and-

GREENBERG TRAURIG LLP  
Ian C. Ballon, Esquire  
Wendy M. Mantell, Esquire  
2450 Colorado Avenue, Suite 400E  
Santa Monica, CA 90404  
Tel: (310) 586-7700  
Fax: (310) 586-7800  
[ballon@gtlaw.com](mailto:ballon@gtlaw.com)  
[mantellw@gtlaw.com](mailto:mantellw@gtlaw.com)